

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MILTON AL STEWART,)	
Acting Secretary of Labor,)	
United States Department of Labor,)	
)	Misc. Case No.: 21-cv-1300
Petitioner,)	
)	Judge:
v.)	
)	Magistrate Judge:
REZA'S TOWER INC.)	
a/k/a REZA OAK BROOK, INC.,)	
)	
Respondent.)	

**ACTING SECRETARY OF LABOR'S PETITION FOR
ENFORCEMENT OF ADMINISTRATIVE SUBPOENA *DUCES TECUM***

Petitioner **MILTON AL STEWART**, Acting Secretary of Labor, United States Department of Labor, (“Acting Secretary”) by and through his counsel, pursuant to Section 9 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et. seq.*, (“FLSA” or “Act”), applies to this Court for an Order requiring Respondent **REZA'S TOWER INC. a/k/a REZA OAK BROOK, INC.** (“Reza’s Tower” or “Respondent”) to comply with the Subpoena *Duces Tecum* issued by the Regional Administrator, Wage and Hour Division, United States Department of Labor, and duly served upon Respondent, and an order tolling the statute of limitations.

I

Jurisdiction to issue the Order is conferred upon this Court by Section 9 of the Act, 29 U.S.C. § 209, and by Sections 9 and 10 of the Federal Trade Commission Act of 1914, as amended (15 U.S.C. §§ 49, 50) (“FTC Act”).

II

Section 11 of the FLSA authorizes the Acting Secretary to investigate and gather data regarding “conditions and practices of employment in any industry subject to this Act . . . as he may deem necessary or appropriate to determine whether any person has violated any provision of this Act, or which may aid in the enforcement of the provisions of this Act.” 29 U.S.C. § 211. Section 9 of the FLSA further provides that sections 9 and 10 of the FTC Act (15 U.S.C. §§ 49, 50), relating to the production of documents, *inter alia*, are applicable to the Acting Secretary for purposes of investigations under the FLSA. 29 U.S.C. § 209. Section 9 of the FTC Act provides authorized agents shall have access to documentary evidence of “any person, partnership, or corporation being investigated or proceeded against; and the Commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation.” 15 U.S.C. § 49.

III

A. Michael Lazzeri is the Regional Administrator of the Wage and Hour Division, United States Department of Labor, who, among others, has been delegated the authority by the Acting Secretary to issue administrative subpoenas under the Act (“Regional Administrator Lazzeri”).

B. Thomas Gauza is the District Director of the Chicago District Office of the Wage and Hour Division, United States Department of Labor (“District Director Gauza”).

C. Brandon Theodore is an Assistant District Director of the Chicago District Office of the Wage and Hour Division, United States Department of Labor (“Assistant District Director Theodore”).

IV

A. Respondent Reza's Tower, at all times referred to herein, is and was an Illinois corporation with an office and principal place of business located at 40 N. Tower Road Oak Brook Illinois 60523, within the jurisdiction of this Court.

B. Reza Toulabi, at all times referred to herein, is and was the individual identified as the current President and Secretary of Reza's Tower and the alleged former owner of Reza's Tower.

C. Ryan Toulabi, at all times referred to herein, is and was an individual identified as the alleged current owner of Reza's Tower.

D. George Pontikes, at all times referred to herein, is and was an individual identified as the attorney for Reza's Tower.

V

In order to conduct a thorough investigation into the wages, hours and other conditions and practices of employment, pursuant to section 11 of the FLSA, Wage and Hour investigators regularly review, copy and/or transcribe information from employers' records including, but not limited to, payroll records and records of hours worked, question and interview employees, and collect and review other relevant data relating to compliance by employers under the Act.

VI

On June 24, 2020, pursuant to the power vested in him as Regional Administrator of the Wage and Hour Division, United States Department of Labor, Michael Lazzeri signed and issued an administrative Subpoena *duces tecum* ("Subpoena") requiring Respondent to present documents electronically before Thomas Gauza, District Director of the Wage and Hour Division, Chicago District Office, United States Department of Labor on the July 1, 2020,

produce designated books, records, and documents, listed on Attachment A to the Subpoena, concerning matters within the scope of an investigation being conducted pursuant to the FLSA, 29 U.S.C. § 211. A copy of the Subpoena *Duces Tecum* is attached hereto and incorporated herein by reference as Exhibit A-2.

VII

On June 28, 2020, the Subpoena was served upon Respondent by hand delivering a duplicate original of the Subpoena to Reza's Tower's manager Nour Deen, at 40 N. Tower Road Oak Brook, Illinois 60523. A copy of the signed Return of Service is attached hereto and incorporated herein by reference as Exhibit A-2.

VIII

Prior to the issuance of the Subpoena, the Acting Secretary had engaged in a number of attempts to obtain the records from Respondent. The Acting Secretary's attempts to secure the documents by other means is reflected in the various requests, conversations, and correspondence exchanged between the Acting Secretary's representatives and Respondent in March 2020 to May 2020. (*See Declaration District Director Brandon Theodore in Support of the Acting Secretary of Labor's Petition to Enforce Administrative Subpoena Duces Tecum*, attached hereto and incorporated herein by reference as Exhibit A, *Declaration of District Director Thomas Gauza in Support of the Acting Secretary of Labor's Petition to Enforce Administrative Subpoena Duces Tecum*, attached hereto and incorporated herein by reference as Exhibit B, and *Declaration of Wage and Hour Investigator Eduardo Hernandez in Support of the Acting Secretary of Labor's Petition to Enforce Administrative Subpoena Duces Tecum*, attached hereto and incorporated herein by reference as Exhibit C). As a result of the failure of

Respondent to produce the documents requested, the Subpoena was issued and served on Respondent as provided herein. (See Ex. A-2; A-3).

IX

After the issuance of the Subpoena, the Acting Secretary again engaged in a number of attempts to obtain the records from Respondent beginning on July 27, 2020, and continuing through December 21, 2020. Respondent has failed to comply fully with the Subpoena and its failure to produce each of the specified books, records, and documents, as required by the Subpoena, has impeded and continues to impede the Secretary's lawful investigation under the provisions of section 11 of the FLSA.

PRAYER FOR RELIEF

WHEREFORE, the Acting Secretary respectfully requests this Court:

- A. Issue an Order requiring Respondent to fully comply with the Acting Secretary's Subpoenas *Duces Tecum* within 14 days of the date of the Order or show cause, if any, for its failure to comply with and obey the Acting Secretary's Subpoenas *Duces Tecum*;
- B. Issue an Order requiring the U.S. Marshals Service to effect service upon Respondent;
- C. Issue an Order tolling the statute of limitations from July 1, 2020, the date Respondent first failed to comply with the Acting Secretary's Subpoenas *Duces Tecum*, until such date as the Acting Secretary informs the Court that Respondent has complied in full;
- D. Issue an Order directing Respondent to pay all costs and expenses incurred by the Acting Secretary in this matter; and
- E. For such other just and further relief as may be necessary and appropriate.

Respectfully submitted,

ELENA GOLDSTEIN
Deputy Solicitor of Labor

CHRISTINE Z. HERI
Regional Solicitor

P.O. Address:

Office of the Solicitor
U.S. Department of Labor
230 S. Dearborn St., Room 844
Chicago, IL 60604
Telephone No.: 312/353-6992
Fax No.: 312/353-5698
E-mail: faklis.lydia.j@dol.gov

s/Lydia J. Faklis
LYDIA J. FAKLIS
Trial Attorney

Attorneys for **MILTON AL STEWART**
Acting Secretary of Labor
U.S. Department of Labor
Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Petition to Enforce Administrative Subpoena*, and accompanying exhibits, of the Acting Secretary of Labor were served upon all parties in the above entitled and numbered cause by depositing the same via UPS, in an envelope addressed to Respondent's last known business addresses:

Reza's Tower Inc.
40 N. Tower Road
Oak Brook, Illinois, 60523

Certified this 9th day of March, 2021.

/s/ *Lydia J. Faklis*

LYDIA J. FAKLIS
Attorney